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Norman D. Hanson
Fulbright & Jaworski, L.L.P.
666 Fifth Avenue
New York, NY 10103

In re Application of :
PADOVAN, et al. :
U.S. Application No.: 09/869,027 :
PCT No.: PCT/EP99/10378 : COMMUNICATION
Int. Filing Date: 23 December 1999 :
Priority Date: 23 December 1998 :
Attorney Docket No.: HUBR-1190 :
For: PENICILLINS AS PHARMACEUTICALS FOR :
THE DOWNREGULATION OF IFNY :
PRODUCTION :

This communication is in response to applicant's response filed 19 September 2001 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 23 December 1999, applicant filed international application PCT/EP99/10378. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 July 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 June 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2001.

On 22 June 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an unsigned declaration; a translation of the annexes to the International Preliminary Examination Report and a First Preliminary Amendment.

On 26 July 2001, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and a NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to respond and informed that extensions of time were available pursuant to 37 CFR 1.136(a).

On 10 August 2001, applicant filed a combined declaration and power of attorney executed by the joint inventors.

On 11 September 2001, applicant was mailed a second NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES (Form PCT/DO/EO/920) informing applicant of the need to file a sequence listing for the present application.

On 19 September 2001, applicant responded with correspondence urging that the Form PCT/DO/EO/920 be vacated as the requirements did not apply to the present petition.

DISCUSSION

Applicant is correct that there is no need to file a sequence listing for the present application. As such, the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES (Form PCT/DO/EO/920) mailed 11 September 2001 are hereby VACATED.

An examination of the file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

The application has an international filing date of **23 December 1999** under 35 U.S.C. 363 and a date of **10 August 2001** under 35 U.S.C. 371(c).

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF ACCEPTANCE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903).



Leonard Smith
Legal Examiner
PCT Legal Office



Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459